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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAN 16 2008

DERRICK DALE FONTRON, et al.,  
Plaintiffs,

CIVIL ACTION

-VS-

JEFFREY A. BEARD, et al.,  
Defendants.

No. 02-CV-2949

"MOTION IN COMPLAINT" OF  
RONALD CLARK

At the Submitting of Complaint (doc.no. 336)  
before the Court out of ignorance I failed to  
submit the proper filing to proceed without costs, for  
which will be corrected with this filing, if it so  
pleases the Court.

Along with the violating of Your Honor's  
injunction regarding the above officials at  
SCI-Greene has repeated said violation. See  
1-11-08 Inmate's Request To Staff Member. (attached)

Counsel for the Defense on 01-08-2008,  
moved in motion to have the Court deny

doc. no. 336 in stating return to sender for additional postage.<sup>1</sup> Counsel for the Defense motion must be denied in several respects, a few of which will be covered here and now:

1) the legal mail listed at doc. no. 336 was addressed to a Court of Competent jurisdiction; 2) the prison mailroom committed the first error "of not" weighing the mail, as inmates do not have scales at their disposal; 3) Your Honor's injunction order does and/or should cover matters of "Return to sender (legal) for whatever reason as there is no undue burden on prison officials; 4) all prison officials needed to do was tell me to add an additional fee to the mail article "without" even feeling some desire to open it up and outside of my presence.

January 11, 2008, Counsel for the defense forwarded Defendants' Response in opposition to "Motion In Complaint" Filed By Ronald Clark (Document 336), for where Counsel complains to the Court that matters of "Return To Sender Mail" (legal mail addressed to the courts/counsels) for matters such as additional postage is not covered under Your Honor's injunctive

Order.

However, there are numerous common-sense flaws in Counsel's argument. The central flaw being as is outlined at document number 336. If a Report and Recommendation is issued on November 26, 2007, received by Plaintiff on November 27, 2007, giving Plaintiff ten (10) days from (from) date of receipt to file objections; objections are filed (or mailed off) December 3, 2007, but are returned to the mailing party between December 3, 2007 - December 11, 2007, for additional postage (but received by the mailing party December 11, 2007), the Plaintiff would technically be in default.

If the Court sends notice of waiver <sup>of</sup> objections to Plaintiff, <sup>he</sup> would have to submit the "Return to Sender mail" to the Court/appellate court along with the institutional signing log as proof the mail was sent out on time. The signing log (log) would be counted as proof of date of Return to Sender. However, if there is no signing log that additional proof being absent can be problematic.

January 11, 2008, I received Document 338 from Counsel for the Defense, for where I received

said filing through the regular Prison mail channel and opened outside of my presence, which is a direct violation of Your Honor's injunctive Order. I "did not" receive the legal protection of signing for the legal.<sup>2</sup> In fact, there's two (2) prior incidents of me receiving legal mail from an attorney (Vincent R. Mazeski, ESQ., on January 7, 2008) that was opened outside my presence and that I was not presented a signing log for.

Counsel's (For the Defense) request that Document 336 be denied should not be denied, as with this present filing.

The Court must issue a clarification order clarifying what the Court's injunction covers, and direct Louis S. Folino, agent of Jeffrey A. Beard to have the inmates at SCI-Greene sign for all legal mail and that it be opened in presence of the inmate.

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<sup>1</sup> is not covered at Your Honor's injunctive order.

<sup>2</sup> mail

/s/ 

# Ronald Clark's (CP-5079) Request To Proceed IN Forma Pauperis:

I am proceed<sup>3</sup> "In Forma Pauperis" in the United States District Court for the Western District of Pennsylvania in the matter of Ronald Clark -vs- Jeffrey A. Beard, et al., Civil Action No. CG-1274. My Financial Condition has not changed for the better and have in fact decreased over the last years.

The attached SCI-Greene Receipt tells as of 1/7/2008 my End Balance standed at \$30.69; which has since decreased.

I request to proceed in the matter of Fontray, et al., -vs- Beard, et al; No. 02-CV-2949 IN Forma Pauperis.

I, Ronald Clark CP507 do affirm that the foregoing is true and correct to the best of my know. I affirm this matter under penalty of perjury in conjunction with both Federal and State Law

Dated: January 14, 2008


/s/   
SCI-Greene

### CERTIFICATE OF SERVICE

I, Ronald Clark (CP-5079) declare under the law at this certificate of service that I deposited in the US. mail, postage-prepaid, first-class, motion in complaint upon the following parties:

MS. Terri B. Himebaugh, ESQ  
220 Stallion Lane  
Schwenksville, PA 19473

John O.J. Shellenbeger, ESQ  
21 S. 12th St., 3d Fl.  
Phila, PA 19107

15/RS 

Ronald Clark CP5079  
SCI-Greene  
175 Progress Drive  
Waynesburg, PA 15370

Dated: 1-14-2008

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Proceeding

Form DC-135A	Commonwealth of Pennsylvania Department of Corrections
<b>INMATE'S REQUEST TO STAFF MEMBER</b>	<b>INSTRUCTIONS</b> Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) <u>Superintendent Louis S. Folino</u>	2. Date: <u>1-11-08</u>
3. By: (Print Inmate Name and Number) <u>Ronald Clark CP5079</u>  Inmate Signature	4. Counselor's Name <u>Crick</u>
	5. Unit Manager's Name <u>Pulya</u>
6. Work Assignment <u>[Blank]</u>	7. Housing Assignment <u>G/B/18</u>
<b>8. Subject:</b> State your request completely but briefly. Give details. <u>Mr. Folino. You issued at First-Level Appeal determination of grievance #211031 on January 7, 2008, and though I still have time<sup>to</sup> appeal your denial I made the conscious decision on 1-9-08 not to appeal in light of the fact that you stated the better process would have been to provide me the benefit of having my return to sender legal mail (for additional postage) to be opened in my presence; although you denied my appeal, which is confusing at best. However, the violation has again occurred today as I received legal filing from John O.J. Shellenberger, Chief Deputy Attorney General in the matter of Fonroy, et al., -vs- Beard, et al., No. 02-CV-2949, for where the mail came to me opened through the regular mail channels. In light of the fact that all parties in the cited case is aware of the first violation I will proceed to filing another complaint before Judge Savage.</u> <u>RE:</u> <u>cc: Court; Teri B. Himebaugh, Esq.; and John O.J. Shellenberger, Esq.</u>	
<b>9. Response:</b> (This Section for Staff Response Only)	
To DC-14 CAR only <input type="checkbox"/>	To DC-14 CAR and DC-15 IRS <input type="checkbox"/>

Staff Member Name \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_  
Print Sign

Date: 1/7/2008 14:57:0

Receipt #: 08007-U375874-417

Name: CLARK, RONALD

PCP #: 117583

Booking #: CP5079

Ending Balance: \$30.69

Beginning Balance: \$44.25

Location: Section: B

Block: G Cell: 2018

Bed:

Inventory ID#	Description	Quantity	Unit	Taxed	Total
AFLOSS	Floss N Go	10	\$0.10	N	\$1.00
A078300000440	Tek Excel Toothbrush	1	\$0.78	N	\$0.78
a045893072710	Suave Aloe with Cucumber	1	\$1.63	Y	\$1.63
A070330001060	BIC Pen - Blue	1	\$0.27	Y	\$0.27
A070330001084	BIC Pen - black	1	\$0.27	Y	\$0.27
A028872200380	Tablet - 5	4	\$0.60	Y	\$2.40
A087381220975	Next 1 Moisturizing Bar	1	\$0.60	Y	\$0.60
A074957101110	Pound Cake	2	\$1.35	N	\$2.70
a072320110110	Animal Crackers	1	\$0.78	N	\$0.78
a087381012297	Keefe Premium Coffee	1	\$2.82	N	\$2.82
TAX THIS SALE	TAX THIS SALE	1	\$0.31	Y	\$0.31
Total Order:					\$13.56

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Inmate Signature Line